

Internal Revenue Service
Regional Commissioner

Department of the Treasury

Date: 30 AUG 1988

CERTIFIED MAIL

No. [REDACTED]

Employer Identification Number:

Form Number:

1023

Tax Years:

Key District:

Person to Contact:

Contact Telephone Number:

Gentlemen:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reason(s):

You do not qualify for exemption from Federal income tax under the provisions of section 501(c)(3) of the Code because you do not "lessen the burdens of government." You are not operating exclusively for charitable purposes as described under section 501(c)(3) of the Code.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, it appears that returns should be filed for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

(over)

We will notify the appropriate State officials of this action, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

[REDACTED]

[REDACTED]

Chief, Appeals Office

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 2508, Cincinnati, OH 45201

Person to Contact

Telephone Number

Refer Reply to:

EP/EO

Date:

JUL 10 1985

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892 (Rev. 7-83), "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that:

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,
[REDACTED]

District Director

Enclosures: 3

Enclosure I

[REDACTED]

Information submitted with your application shows that you were incorporated in the State of [REDACTED] on [REDACTED]. Your amended Articles of Incorporation state that your purpose is to promote the concept of job creation, training, and involvement for purposes of rehabilitation and the reduction of cost to society flowing from unemployment by prisoner education, rehabilitation, and job creation.

The only member of your governing body is [REDACTED], President, Executive Director and founder of your organization. You stated that your staff will not be selected until funding is committed to cover the operational costs of your organization.

The term "prison industries" refers to the work activity of prisoners. Federal prisons provide goods and services to federal purchasing activities. State prisons provide goods and services to their state purchasing activities and to the private industry. You will obtain orders for prison industries. You will provide employment, rehabilitation, training, work experience, the opportunity to set up, operate, and own businesses, and development to the most disadvantaged minorities of all, namely: those within the prison system who will be returning to society with a prison record. You will offer sales representation, warehousing, and financial services to recipients. The intended recipient of your services will be the prison industries. The funds flowing from the sale of prison made goods or services to selected markets will allow you to work to enhance the efficiency of prison industries. Funds flowing from the sale of goods and services will contribute to covering the cost of operations for your organization. You are unable to determine what specific goods and services you will purchase and resell or to whom and how these products will be sold and distributed. A marketing developer will make the necessary arrangements to initiate and complete transactions from order to delivery and collection.

You will purchase goods and services from prison industries for resale in order to compete with imports and exports to the U.S. so as to contribute to reducing the present unfavorable balance of trade position of the U.S. You state that the concept of prison industries, reducing imports, and increasing exports are all in the best of public interest and on target with goals of the National Administration. You feel that your organization has the training and expertise to utilize the complexities of prison industries as a sub-contractor and that the development of your organization as a supplier will result in contributing to the enhancement and expansion of

Enclosure I con't

[REDACTED]

prison industries. This expansion will contribute to reducing the cost of government and national deficit to the extent that the profit and overhead from the income of the prison industry reduces the amount of tax dollars required to support the prisons. To the extent that your organization can furnish parts supplied by overseas sources, a similar dollar amount is contributed to the reduction of the federal trade deficit. This would also create jobs in the U.S. which would replace work being done overseas.

By purchasing prison made goods, you stated that indirectly you would create more jobs for prisoners and for persons outside the prison industry. You state that you will be selective in the type of goods and services you obtain from the prison industry which will enable the prisoner worker to obtain training, develop skills, and gain work experience for purposes of rehabilitation and gaining employment upon his return to society.

You feel that by purchasing prison made goods, you are lessening the burdens of the government because the income generated by purchasing the prison made goods tends to reduce the costs the government must bear to operate the prisons. The operations of [REDACTED] will contribute to job creation and the reduction of unemployment. The sale of the goods you will purchase will contribute to reducing imports and increasing exports thereby contributing to reducing the Federal deficit.

You expect to be financially supported by funds from manufacturing corporations, government, non profit foundations, public solicitation and income from the sale of prison made goods and services. Expenditures will be made for contractual employees including your director, program developer, marketing developer, and a clerical, accounting, and legal staff, utilities, travel, promotion and advertising, publicity, and other miscellaneous operating expenses. Surplus funds will be used to assist and support other organizations with similar purposes and efforts.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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Section 1.501(c)(3)-1(a)(1) of the Regulations states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(d)(2) of the Regulations provide that the term charitable is to be used in its "generally accepted legal sense" and includes lessening the burdens of Government.

In considering whether an organization may be lessening the burdens of Government, it is first necessary to identify the organization's principal purpose with a legitimate "burden" of Government. Certain activities that assist governmental units in performing their functions have been held to be charitable on the basis that they relieve the burdens of Government. These cases involve either a gift of funds or a donation of services to the Government or a governmental unit. For example, an organization operating a community correctional center to provide rehabilitation for prisoners selected by the courts or governmental custodial agencies has been held to be a charitable activity. (Revenue Ruling 70-583, 1970-2 C.B. 114.)

Your activities consist of purchasing prison made goods and services which you will resell to private industry. The information submitted with your application shows that these goods and services are already being used or purchased by Federal and State agencies. Your creating an organization to sell these prison made goods does not provide a service to the Government or any governmental units. The training, employment, rehabilitation, etc. that the prisoners receive would not be provided by your organization, it is provided directly by the correctional institutions wherein they are incarcerated. Therefore, it is our opinion that your proposed activities are not a legitimate "burden" of Government and do not constitute charitable activities in the generally accepted legal sense. Thus, you do not qualify for exemption from Federal income tax under the provisions of section 501(c)(3) of the Code.